

AMENDED IN SENATE APRIL 2, 1998

**SENATE BILL**

**No. 1690**

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**Introduced by Senator Rainey**

February 17, 1998

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An act to amend Section 219 of the Code of Civil Procedure, to amend Sections 148.1, 148.5, 148.9, 150, 190, 12027, and 12031 of the Penal Code, and to amend Section 2805 of the Vehicle Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1690, as amended, Rainey. Peace officers.

Existing law exempts certain specified peace officers from selection for voir dire in civil or criminal matters.

Existing law makes it a felony or a misdemeanor for any person who reports to any of certain specified peace officers that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that the report is false.

Existing law makes it a misdemeanor for any person who reports to any of certain specified peace officers that a felony or misdemeanor has been committed, knowing the report to be false.

Existing law makes it a misdemeanor for any person who falsely represents or identifies himself or herself as another person or as a fictitious person to any of certain specified peace officers, upon a lawful detention or arrest of the person, either to evade the process of the court, or to evade the proper identification of the person by the investigating officer.

Under existing law, every able-bodied adult who neglects or refuses to join the posse comitatus or power of the county, as specified, being thereto lawfully required by any uniformed peace officer, or by any of certain specified peace officers who identifies himself or herself with a badge or identification card issued by the officer's employing agency, or by any judge, is punishable by fine of not less than \$50 nor more than \$1,000.

Existing law, amended by initiative statute, prescribes an increased term of imprisonment for any person guilty of murder in the 2nd degree if the victim was any of certain specified peace officers, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties.

Existing law exempts specified peace officers and retired peace officers from general prohibitions against carrying a concealed or loaded firearm.

Existing law authorizes specified peace officers, for the purpose of locating stolen vehicles, to inspect any vehicle of a type required to be registered, or any identifiable vehicle component thereof, in specified locations, and to inspect the title or registration of vehicles in order to establish the rightful ownership or possession of the vehicle or identifiable vehicle component.

This bill would make these provisions applicable to members of the San Francisco Bay Area Rapid Transit District Police Department, the University of California Police Department, and the California State University Police Departments. By expanding the scope of existing crimes with respect to these peace officers, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would incorporate additional amendments to Section 190 of the Penal Code proposed by Chapter 413 of the Statutes of 1997 but not yet approved by the voters, to be



operative if that chapter is approved by the voters at a statewide general election held in 1998.

The bill would provide that its provisions amending Section 190 of the Penal Code shall become effective only when submitted to, and approved by, the voters.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 219 of the Code of Civil  
2 Procedure is amended to read:

3 219. (a) Except as provided in subdivision (b), the  
4 jury commissioner shall randomly select jurors for jury  
5 panels to be sent to courtrooms for voir dire.

6 (b) (1) Notwithstanding subdivision (a), no peace  
7 officer, as defined in Section 830.1, subdivisions (a), (b),  
8 and (c) of Section 830.2, and subdivision (a) of Section  
9 830.33 of the Penal Code, shall be selected for voir dire in  
10 civil or criminal matters.

11 (2) Notwithstanding subdivision (a), no peace officer,  
12 as defined in subdivision (d) of Section 830.2 of the Penal  
13 Code, shall be selected for voir dire in criminal matters.

14 SEC. 2. Section 148.1 of the Penal Code is amended to  
15 read:

16 148.1. (a) Any person who reports to any peace  
17 officer listed in Section 830.1 or 830.2, or subdivision (a)  
18 of Section 830.33, employee of a fire department or fire  
19 service, district attorney, newspaper, radio station,  
20 television station, deputy district attorney, employees of  
21 the Department of Justice, employees of an airline,  
22 employees of an airport, employees of a railroad or  
23 busline, an employee of a telephone company, occupants  
24 of a building or a news reporter in the employ of a  
25 newspaper or radio or television station, that a bomb or  
26 other explosive has been or will be placed or secreted in  
27 any public or private place, knowing that the report is  
28 false, is guilty of a crime punishable by imprisonment in  
29 the state prison, or imprisonment in the county jail not to  
30 exceed one year.

1 (b) Any person who reports to any other peace officer  
2 defined in Chapter 4.5 (commencing with Section 830) of  
3 Title 3 of Part 2 that a bomb or other explosive has been  
4 or will be placed or secreted in any public or private  
5 place, knowing that the report is false, is guilty of a crime  
6 punishable by imprisonment in the state prison or in the  
7 county jail not to exceed one year if (1) the false  
8 information is given while the peace officer is engaged in  
9 the performance of his or her duties as a peace officer; and  
10 (2) the person providing the false information knows or  
11 should have known that the person receiving the  
12 information is a peace officer.

13 (c) Any person who maliciously informs any other  
14 person that a bomb or other explosive has been or will be  
15 placed or secreted in any public or private place, knowing  
16 that the information is false, is guilty of a crime punishable  
17 by imprisonment in the state prison, or imprisonment in the  
18 county jail not to exceed one year.

19 (d) Any person who maliciously gives, mails, sends, or  
20 causes to be sent any false or facsimile bomb to another  
21 person, or places, causes to be placed, or maliciously  
22 possesses any false or facsimile bomb, with the intent to  
23 cause another to fear for his or her personal safety or the  
24 safety of others, is guilty of a crime punishable by  
25 imprisonment in the state prison, or imprisonment in the  
26 county jail not to exceed one year.

27 SEC. 3. Section 148.5 of the Penal Code is amended to  
28 read:

29 148.5. (a) Every person who reports to any peace  
30 officer listed in Section 830.1 or 830.2, or subdivision (a)  
31 of Section 830.33, district attorney, or deputy district  
32 attorney that a felony or misdemeanor has been  
33 committed, knowing the report to be false, is guilty of a  
34 misdemeanor.

35 (b) Every person who reports to any other peace  
36 officer, as defined in Chapter 4.5 (commencing with  
37 Section 830) of Title 3 of Part 2, that a felony or  
38 misdemeanor has been committed, knowing the report to  
39 be false, is guilty of a misdemeanor if (1) the false  
40 information is given while the peace officer is engaged in

1 the performance of his or her duties as a peace officer and  
2 (2) the person providing the false information knows or  
3 should have known that the person receiving the  
4 information is a peace officer.

5 (c) Except as provided in subdivisions (a) and (b),  
6 every person who reports to any employee who is  
7 assigned to accept reports from citizens, either directly or  
8 by telephone, and who is employed by a state or local  
9 agency which is designated in Section 830.1, 830.2,  
10 subdivision (e) of *Section* 830.3, Section 830.31, 830.32,  
11 830.33, 830.34, 830.35, 830.36, 830.37, or 830.4, that a felony  
12 or misdemeanor has been committed, knowing the  
13 report to be false, is guilty of a misdemeanor if (1) the  
14 false information is given while the employee is engaged  
15 in the performance of his or her duties as an agency  
16 employee and (2) the person providing the false  
17 information knows or should have known that the person  
18 receiving the information is an agency employee  
19 engaged in the performance of the duties described in  
20 this subdivision.

21 (d) Every person who makes a report to a grand jury  
22 that a felony or misdemeanor has been committed,  
23 knowing the report to be false, is guilty of a misdemeanor.  
24 This subdivision shall not be construed as prohibiting or  
25 precluding a charge of perjury or contempt for any report  
26 made under oath in an investigation or proceeding before  
27 a grand jury.

28 (e) This section does not apply to reports made by  
29 persons who are required by statute to report known or  
30 suspected instances of child abuse, dependent adult  
31 abuse, or elder abuse.

32 SEC. 4. Section 148.9 of the Penal Code is amended to  
33 read:

34 148.9. (a) Any person who falsely represents or  
35 identifies himself or herself as another person or as a  
36 fictitious person to any peace officer listed in Section 830.1  
37 or 830.2, or subdivision (a) of Section 830.33, upon a lawful  
38 detention or arrest of the person, either to evade the  
39 process of the court, or to evade the proper identification

1 of the person by the investigating officer is guilty of a  
2 misdemeanor.

3 (b) Any person who falsely represents or identifies  
4 himself or herself as another person or as a fictitious  
5 person to any other peace officer defined in Chapter 4.5  
6 (commencing with Section 830) of Title 3 of Part 2, upon  
7 lawful detention or arrest of the person, either to evade  
8 the process of the court, or to evade the proper  
9 identification of the person by the arresting officer is  
10 guilty of a misdemeanor if (1) the false information is  
11 given while the peace officer is engaged in the  
12 performance of his or her duties as a peace officer; and (2)  
13 the person providing the false information knows or  
14 should have known that the person receiving the  
15 information is a peace officer.

16 SEC. 5. Section 150 of the Penal Code is amended to  
17 read:

18 150. Every able-bodied person above 18 years of age  
19 who neglects or refuses to join the posse comitatus or  
20 power of the county, by neglecting or refusing to aid and  
21 assist in taking or arresting any person against whom  
22 there may be issued any process, or by neglecting to aid  
23 and assist in retaking any person who, after being arrested  
24 or confined, may have escaped from arrest or  
25 imprisonment, or by neglecting or refusing to aid and  
26 assist in preventing any breach of the peace, or the  
27 commission of any criminal offense, being thereto  
28 lawfully required by any uniformed peace officer, or by  
29 any peace officer described in Section 830.1, subdivision  
30 (a), (b), (c), (d), (e), or (f) of Section 830.2, or  
31 subdivision (a) of Section 830.33, who identifies himself or  
32 herself with a badge or identification card issued by the  
33 officer's employing agency, or by any judge, is punishable  
34 by fine of not less than fifty dollars (\$50) nor more than  
35 one thousand dollars (\$1,000).

36 SEC. 6. Section 190 of the Penal Code, as amended by  
37 Proposition 179 at the June 7, 1994, statewide primary  
38 election, is amended to read:

39 190. (a) Every person guilty of murder in the first  
40 degree shall be punished by death, imprisonment in the

1 state prison for life without the possibility of parole, or  
2 imprisonment in the state prison for a term of 25 years to  
3 life. The penalty to be applied shall be determined as  
4 provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

5 Except as provided in subdivision (b) or (c), every  
6 person guilty of murder in the second degree shall be  
7 punished by imprisonment in the state prison for a term  
8 of 15 years to life.

9 Except as provided in subdivision (b), Article 2.5  
10 (commencing with Section 2930) of Chapter 7 of Title 1  
11 of Part 3 shall apply to reduce any minimum term of 15,  
12 20, or 25 years in the state prison imposed pursuant to this  
13 section, but the person shall not otherwise be released on  
14 parole prior to that time.

15 (b) Every person guilty of murder in the second  
16 degree shall be punished by imprisonment in the state  
17 prison for a term of 25 years to life if the victim was a  
18 peace officer, as defined in subdivision (a) of Section  
19 830.1, subdivision (a), (b), or (c) of Section 830.2,  
20 subdivision (a) of Section 830.33, or Section 830.5, who  
21 was killed while engaged in the performance of his or her  
22 duties, and the defendant knew, or reasonably should  
23 have known, that the victim was a peace officer engaged  
24 in the performance of his or her duties.

25 Article 2.5 (commencing with Section 2930) of Chapter  
26 7 of Title 1 of Part 3 shall not apply to reduce any  
27 minimum term of 25 years in the state prison when the  
28 person is guilty of murder in the second degree and the  
29 victim was a peace officer, as defined in this subdivision,  
30 and the person shall not be released prior to serving 25  
31 ~~years confinement.~~ *years' imprisonment.*

32 (c) Every person guilty of murder in the second  
33 degree shall be punished by imprisonment in the state  
34 prison for a term of 20 years to life if the killing was  
35 perpetrated by means of shooting a firearm from a motor  
36 vehicle, intentionally at another person outside of the  
37 vehicle with the intent to inflict great bodily injury.

38 Article 2.5 (commencing with Section 2930) of Chapter  
39 7 of Title 1 of Part 3 shall apply to reduce any minimum  
40 term of 20 years in the state prison when the person is

1 guilty of murder in the second degree and is subject to  
2 this subdivision, but the person shall not otherwise be  
3 released on parole prior to that time.

4 SEC. 7. Section 190 of the Penal Code, as amended by  
5 Section 1 of Chapter 413 of the Statutes of 1997, is  
6 amended to read:

7 190. (a) Every person guilty of murder in the first  
8 degree shall be punished by death, imprisonment in the  
9 state prison for life without the possibility of parole, or  
10 imprisonment in the state prison for a term of 25 years to  
11 life. The penalty to be applied shall be determined as  
12 provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

13 Except as provided in subdivision (b), (c), or (d),  
14 every person guilty of murder in the second degree shall  
15 be punished by imprisonment in the state prison for a  
16 term of 15 years to life.

17 (b) Except as provided in subdivision (c), every  
18 person guilty of murder in the second degree shall be  
19 punished by imprisonment in the state prison for a term  
20 of 25 years to life if the victim was a peace officer, as  
21 defined in subdivision (a) of Section 830.1, subdivision  
22 (a), (b), or (c) of Section 830.2, subdivision (a) of Section  
23 830.33, or Section 830.5, who was killed while engaged in  
24 the performance of his or her duties, and the defendant  
25 knew, or reasonably should have known, that the victim  
26 was a peace officer engaged in the performance of his or  
27 her duties.

28 (c) Every person guilty of murder in the second  
29 degree shall be punished by imprisonment in the state  
30 prison for a term of life without the possibility of parole  
31 if the victim was a peace officer, as defined in subdivision  
32 (a) of Section 830.1, subdivision (a), (b), or (c) of Section  
33 830.2, subdivision (a) of Section 830.33, or Section 830.5,  
34 who was killed while engaged in the performance of his  
35 or her duties, and the defendant knew, or reasonably  
36 should have known, that the victim was a peace officer  
37 engaged in the performance of his or her duties, and any  
38 of the following facts has been charged and found true:

39 (1) The defendant specifically intended to kill the  
40 peace officer.

(2) The defendant specifically intended to inflict great bodily injury, as defined in Section 12022.7, on a peace officer.

(3) The defendant personally used a dangerous or deadly weapon in the commission of the offense, in violation of subdivision (b) of Section 12022.

(4) The defendant personally used a firearm in the commission of the offense, in violation of Section 12022.5.

(d) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 20 years to life if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury.

(e) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of a sentence imposed pursuant to this section. A person sentenced pursuant to this section shall not be released on parole prior to serving the minimum term of confinement prescribed by this section.

SEC. 8. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to, or affect, any of the following:

(a) (1) (A) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, other honorably retired peace officers who during the course and scope of their employment as peace officers were authorized to, and did, carry firearms, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has

1 retired. The issuing agency may charge a fee necessary to  
2 cover any reasonable expenses incurred by the agency in  
3 issuing certificates pursuant to this subdivision. As used in  
4 this section and Section 12031, the term “honorably  
5 retired” includes all peace officers who have qualified for,  
6 and have accepted, a service or disability retirement. For  
7 purposes of this section and Section 12031, the term  
8 “honorably retired” does not include an officer who has  
9 agreed to a service retirement in lieu of termination.

10 (B) Any officer, except an officer listed in Section 830.1  
11 or 830.2, subdivision (a) of Section 830.33, or subdivision  
12 (c) of Section 830.5 who retired prior to January 1, 1981,  
13 shall have an endorsement on the identification  
14 certificate stating that the issuing agency approves the  
15 officer’s carrying of a concealed firearm.

16 (C) No endorsement or renewal endorsement issued  
17 pursuant to paragraph (2) shall be effective unless it is in  
18 the format set forth in subparagraph (D), except that any  
19 peace officer listed in subdivision (f) of Section 830.2 or  
20 in subdivision (c) of Section 830.5, who is retired between  
21 January 2, 1981, and on or before December 31, 1988, and  
22 who is authorized to carry a concealed firearm pursuant  
23 to this section, shall not be required to have an  
24 endorsement in the format set forth in subparagraph (D)  
25 until the time of the issuance, on or after January 1, 1989,  
26 of a renewal endorsement pursuant to paragraph (2).

27 (D) A certificate issued pursuant to this paragraph for  
28 persons who are not listed in Section 830.1 or 830.2,  
29 subdivision (a) of Section 830.33, or subdivision (c) of  
30 Section 830.5 or for persons retiring after January 1, 1981,  
31 shall be in the following format: it shall be on a 2×3 inch  
32 card, bear the photograph of the retiree, the retiree’s  
33 name, address, date of birth, the date that the retiree  
34 retired, name and address of the agency from which the  
35 retiree retired, have stamped on it the endorsement  
36 “CCW Approved” and the date the endorsement is to be  
37 renewed.

38 (E) For purposes of this section and Section 12031,  
39 “CCW” means “carry concealed weapons.”

1 (2) A retired peace officer, except an officer listed in  
 2 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or  
 3 subdivision (c) of Section 830.5 who retired prior to  
 4 January 1, 1981, shall petition the issuing agency for the  
 5 renewal of his or her privilege to carry a concealed  
 6 firearm every five years. An honorably retired peace  
 7 officer listed in Section 830.1 or 830.2, subdivision (a) of  
 8 Section 830.33, or subdivision (c) of Section 830.5 who  
 9 retired prior to January 1, 1981, shall not be required to  
 10 obtain an endorsement from the issuing agency to carry  
 11 a concealed firearm. The agency from which a peace  
 12 officer is honorably retired may, upon initial retirement  
 13 of that peace officer, or at any time subsequent thereto,  
 14 deny or revoke, for good cause the retired officer's  
 15 privilege to carry a concealed firearm. A peace officer  
 16 who is listed in Section 830.1 or 830.2, subdivision (a) of  
 17 Section 830.33, or subdivision (c) of Section 830.5 who  
 18 retired prior to January 1, 1981, shall have his or her  
 19 privilege to carry a concealed firearm denied or revoked  
 20 by having the agency from which the officer retired  
 21 stamp on the officer's identification certificate "No CCW  
 22 privilege."

23 (3) An honorably retired peace officer who is listed in  
 24 subdivision (c) of Section 830.5 and authorized to carry  
 25 concealed firearms by this subdivision shall meet the  
 26 training requirements of Section 832 and shall qualify  
 27 with the firearm at least annually. The individual retired  
 28 peace officer shall be responsible for maintaining his or  
 29 her eligibility to carry a concealed firearm. The  
 30 Department of Justice shall provide subsequent arrest  
 31 notification pursuant to Section 11105.2 regarding  
 32 honorably retired peace officers listed in subdivision (c)  
 33 of Section 830.5 to the agency from which the officer has  
 34 retired.

35 (b) The possession or transportation of unloaded  
 36 pistols, revolvers, or other firearms capable of being  
 37 concealed upon the person as merchandise by a person  
 38 who is engaged in the business of manufacturing,  
 39 importing, wholesaling, repairing, or dealing in firearms  
 40 and who is licensed to engage in that business or the

1 authorized representative or authorized agent of that  
2 person while engaged in the lawful course of the business.

3 (c) Members of the Army, Navy, Air Force, Coast  
4 Guard, or Marine Corps of the United States, or the  
5 National Guard, when on duty, or organizations which  
6 are by law authorized to purchase or receive those  
7 weapons from the United States or this state.

8 (d) The carrying of unloaded pistols, revolvers, or  
9 other firearms capable of being concealed upon the  
10 person by duly authorized military or civil organizations  
11 while parading, or the members thereof when going to  
12 and from the places of meeting of their respective  
13 organizations.

14 (e) Guards or messengers of common carriers, banks,  
15 and other financial institutions while actually employed  
16 in and about the shipment, transportation, or delivery of  
17 any money, treasure, bullion, bonds, or other thing of  
18 value within this state.

19 (f) Members of any club or organization organized for  
20 the purpose of practicing shooting at targets upon  
21 established target ranges, whether public or private,  
22 while the members are using pistols, revolvers, or other  
23 firearms capable of being concealed upon the person  
24 upon the target ranges, or transporting these firearms  
25 unloaded when going to and from the ranges.

26 (g) Licensed hunters or fishermen carrying pistols,  
27 revolvers, or other firearms capable of being concealed  
28 upon the person while engaged in hunting or fishing, or  
29 transporting those firearms unloaded when going to or  
30 returning from the hunting or fishing expedition.

31 (h) Transportation of unloaded firearms by a person  
32 operating a licensed common carrier or an authorized  
33 agent or employee thereof when transported in  
34 conformance with applicable federal law.

35 (i) Upon approval of the sheriff of the county in which  
36 they reside, honorably retired federal officers or agents of  
37 federal law enforcement agencies, including, but not  
38 limited to, the Federal Bureau of Investigation, the Secret  
39 Service, the United States Customs Service, the Federal  
40 Bureau of Alcohol, Tobacco, and Firearms, the Federal

1 Bureau of Narcotics, the Drug Enforcement  
2 Administration, the United States Border Patrol, and  
3 officers or agents of the Internal Revenue Service who  
4 were authorized to carry weapons while on duty, who  
5 were assigned to duty within the state for a period of not  
6 less than one year, or who retired from active service in  
7 the state.

8 Retired federal officers or agents shall provide the  
9 sheriff with certification from the agency from which  
10 they retired certifying their service in the state, the  
11 nature of their retirement, and indicating the agency's  
12 concurrence that the retired federal officer or agent  
13 should be accorded the privilege of carrying a concealed  
14 firearm.

15 Upon that approval, the sheriff shall issue a permit to  
16 the retired federal officer or agent indicating that he or  
17 she may carry a concealed firearm in accordance with this  
18 subdivision. The permit shall be valid for a period not  
19 exceeding five years, shall be carried by the retiree while  
20 carrying a concealed firearm, and may be revoked for  
21 good cause.

22 The sheriff of the county in which the retired federal  
23 officer or agent resides may require recertification prior  
24 to a permit renewal, and may suspend the privilege for  
25 cause. The sheriff may charge a fee necessary to cover any  
26 reasonable expenses incurred by the county.

27 (j) The carrying of a pistol, revolver, or other firearm  
28 capable of being concealed upon the person by a person  
29 who is authorized to carry that weapon in a concealed  
30 manner pursuant to Article 3 (commencing with Section  
31 12050).

32 SEC. 9. Section 12031 of the Penal Code is amended  
33 to read:

34 12031. (a) (1) A person is guilty of carrying a loaded  
35 firearm when he or she carries a loaded firearm on his or  
36 her person or in a vehicle while in any public place or on  
37 any public street in an incorporated city or in any public  
38 place or on any public street in a prohibited area of  
39 unincorporated territory.

1 (2) Carrying a loaded firearm in violation of this  
2 section is punishable, as follows:

3 (A) Where the person previously has been convicted  
4 of any felony, or of any crime made punishable by this  
5 chapter, as a felony.

6 (B) Where the firearm is stolen and the person knew  
7 or had reasonable cause to believe that it was stolen, as a  
8 felony.

9 (C) Where the person is an active participant in a  
10 criminal street gang, as defined in subdivision (a) of  
11 Section 186.22, under the Street Terrorism Enforcement  
12 and Prevention Act (Chapter 11 (commencing with  
13 Section 18620) of Title 7 of Part 1), as a felony.

14 (D) Where the person is not in lawful possession of the  
15 firearm, as defined in this section, or is within a class of  
16 persons prohibited from possessing or acquiring a firearm  
17 pursuant to Section 12021 or 12021.1 of this code or  
18 Section 8100 or 8103 of the Welfare and Institutions Code,  
19 as a felony.

20 (E) Where the person has been convicted of a crime  
21 against a person or property, or of a narcotics or  
22 dangerous drug violation, by imprisonment in the state  
23 prison, or by imprisonment in a county jail not to exceed  
24 one year, by a fine not to exceed one thousand dollars  
25 (\$1,000), or by both that imprisonment and fine.

26 (F) In all cases other than those specified in  
27 subparagraphs (A) to (E), inclusive, as a misdemeanor,  
28 punishable by imprisonment in a county jail not to exceed  
29 one year, by a fine not to exceed one thousand dollars  
30 (\$1,000), or by both that imprisonment and fine.

31 (G) For purposes of this section, “lawful possession of  
32 the firearm” means that the person who has possession or  
33 custody of the firearm either owns the firearm or has the  
34 permission of the owner or a person who otherwise has  
35 apparent authority to possess or have custody of the  
36 firearm. A person who takes a firearm without the  
37 permission of the owner or without the permission of a  
38 person who has custody of the firearm does not have  
39 lawful possession of the firearm.

(3) Nothing in this section shall preclude prosecution under Sections 12021 and 12021.1 of this code, Section 8100 or 8103 of the Welfare and Institutions Code, or any other law with a greater penalty than this section.

(4) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836, a peace officer may make an arrest without a warrant:

(A) When the person arrested has violated this section, although not in the officer's presence.

(B) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

(5) (A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(6) A violation of this section which is punished by imprisonment in a county jail not exceeding one year shall not constitute a conviction of a crime punishable by imprisonment for a term exceeding one year for the purposes of determining federal firearms eligibility under Section 922(g)(1) of Title 18 of the United States Code.

1 (b) Subdivision (a) shall not apply to any of the  
2 following:

3 (1) Peace officers listed in Section 830.1 or 830.2, or  
4 subdivision (a) of Section 830.33, whether active or  
5 honorably retired, other duly appointed peace officers,  
6 honorably retired peace officers listed in subdivision (c)  
7 of Section 830.5, other honorably retired peace officers  
8 who during the course and scope of their employment as  
9 peace officers were authorized to, and did, carry firearms,  
10 full-time paid peace officers of other states and the  
11 federal government who are carrying out official duties  
12 while in California, or any person summoned by any of  
13 those officers to assist in making arrests or preserving the  
14 peace while the person is actually engaged in assisting  
15 that officer. Any peace officer described in this paragraph  
16 who has been honorably retired shall be issued an  
17 identification certificate by the law enforcement agency  
18 from which the officer has retired. The issuing agency  
19 may charge a fee necessary to cover any reasonable  
20 expenses incurred by the agency in issuing certificates  
21 pursuant to this paragraph and paragraph (3).

22 Any officer, except an officer listed in Section 830.1 or  
23 830.2, subdivision (a) of Section 830.33, or subdivision (c)  
24 of Section 830.5 who retired prior to January 1, 1981, shall  
25 have an endorsement on the identification certificate  
26 stating that the issuing agency approves the officer's  
27 carrying of a loaded firearm.

28 No endorsement or renewal endorsement issued  
29 pursuant to paragraph (2) shall be effective unless it is in  
30 the format set forth in subparagraph (D) of paragraph  
31 (1) of subdivision (a) of Section 12027, except that any  
32 peace officer listed in subdivision (f) of Section 830.2 or  
33 in subdivision (c) of Section 830.5, who is retired between  
34 January 2, 1981, and on or before December 31, 1988, and  
35 who is authorized to carry a loaded firearm pursuant to  
36 this section, shall not be required to have an endorsement  
37 in the format set forth in subparagraph (D) of paragraph  
38 (1) of subdivision (a) of Section 12027 until the time of the  
39 issuance, on or after January 1, 1989, of a renewal  
40 endorsement pursuant to paragraph (2).

1 (2) A retired peace officer, except an officer listed in  
 2 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or  
 3 subdivision (c) of Section 830.5 who retired prior to  
 4 January 1, 1981, shall petition the issuing agency for  
 5 renewal of his or her privilege to carry a loaded firearm  
 6 every five years. An honorably retired peace officer listed  
 7 in Section 830.1 or 830.2, ~~or~~ subdivision (a) of Section  
 8 830.33, or subdivision (c) of Section 830.5 who retired  
 9 prior to January 1, 1981, shall not be required to obtain an  
 10 endorsement from the issuing agency to carry a loaded  
 11 firearm. The agency from which a peace officer is  
 12 honorably retired may, upon initial retirement of the  
 13 peace officer, or at any time subsequent thereto, deny or  
 14 revoke, for good cause, the retired officer's privilege to  
 15 carry a loaded firearm. A peace officer who is listed in  
 16 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or  
 17 subdivision (c) of Section 830.5 who is retired prior to  
 18 January 1, 1981, shall have his or her privilege to carry a  
 19 loaded firearm denied or revoked by having the agency  
 20 from which the officer retired stamp on the officer's  
 21 identification certificate "No CCW privilege."

22 (3) An honorably retired peace officer who is listed in  
 23 subdivision (c) of Section 830.5 and authorized to carry  
 24 loaded firearms by this subdivision shall meet the training  
 25 requirements of Section 832 and shall qualify with the  
 26 firearm at least annually. The individual retired peace  
 27 officer shall be responsible for maintaining his or her  
 28 eligibility to carry a loaded firearm. The Department of  
 29 Justice shall provide subsequent arrest notification  
 30 pursuant to Section 11105.2 regarding honorably retired  
 31 peace officers listed in subdivision (c) of Section 830.5 to  
 32 the agency from which the officer has retired.

33 (4) Members of the military forces of this state or of the  
 34 United States engaged in the performance of their duties.

35 (5) Persons who are using target ranges for the  
 36 purpose of practice shooting with a firearm or who are  
 37 members of shooting clubs while hunting on the premises  
 38 of those clubs.

39 (6) The carrying of pistols, revolvers, or other firearms  
 40 capable of being concealed upon the person by persons

1 who are authorized to carry those weapons pursuant to  
2 Article 3 (commencing with Section 12050) of Chapter 1  
3 of Title 2 of Part 4.

4 (7) Armored vehicle guards, as defined in Section 7521  
5 of the Business and Professions Code, (A) if hired prior to  
6 January 1, 1977, or (B) if hired on or after that date, if  
7 they have received a firearms qualification card from the  
8 Department of Consumer Affairs, in each case while  
9 acting within the course and scope of their employment.

10 (8) Upon approval of the sheriff of the county in which  
11 they reside, honorably retired federal officers or agents of  
12 federal law enforcement agencies, including, but not  
13 limited to, the Federal Bureau of Investigation, the Secret  
14 Service, the United States Customs Service, the Federal  
15 Bureau of Alcohol, Tobacco, and Firearms, the Federal  
16 Bureau of Narcotics, the Drug Enforcement  
17 Administration, the United States Border Patrol, and  
18 officers or agents of the Internal Revenue Service who  
19 were authorized to carry weapons while on duty, who  
20 were assigned to duty within the state for a period of not  
21 less than one year, or who retired from active service in  
22 the state.

23 Retired federal officers or agents shall provide the  
24 sheriff with certification from the agency from which  
25 they retired certifying their service in the state, the  
26 nature of their retirement, and indicating the agency's  
27 concurrence that the retired federal officer or agent  
28 should be accorded the privilege of carrying a loaded  
29 firearm.

30 Upon approval, the sheriff shall issue a permit to the  
31 retired federal officer or agent indicating that he or she  
32 may carry a loaded firearm in accordance with this  
33 paragraph. The permit shall be valid for a period not  
34 exceeding five years, shall be carried by the retiree while  
35 carrying a loaded firearm, and may be revoked for good  
36 cause.

37 The sheriff of the county in which the retired federal  
38 officer or agent resides may require recertification prior  
39 to a permit renewal, and may suspend the privilege for

1 cause. The sheriff may charge a fee necessary to cover any  
2 reasonable expenses incurred by the county.

3 (c) Subdivision (a) shall not apply to any of the  
4 following who have completed a regular course in  
5 firearms training approved by the Commission on Peace  
6 Officer Standards and Training:

7 (1) Patrol special police officers appointed by the  
8 police commission of any city, county, or city and county  
9 under the express terms of its charter who also, under the  
10 express terms of the charter, (A) are subject to suspension  
11 or dismissal after a hearing on charges duly filed with the  
12 commission after a fair and impartial trial, (B) are not less  
13 than 18 years of age or more than 40 years of age, (C)  
14 possess physical qualifications prescribed by the  
15 commission, and (D) are designated by the police  
16 commission as the owners of a certain beat or territory as  
17 may be fixed from time to time by the police commission.

18 (2) The carrying of weapons by animal control officers  
19 or zookeepers, regularly compensated as such by a  
20 governmental agency when acting in the course and  
21 scope of their employment and when designated by a  
22 local ordinance or, if the governmental agency is not  
23 authorized to act by ordinance, by a resolution, either  
24 individually or by class, to carry the weapons, or by  
25 persons who are authorized to carry the weapons  
26 pursuant to Section 14502 of the Corporations Code, while  
27 actually engaged in the performance of their duties  
28 pursuant to that section.

29 (3) Harbor police officers designated pursuant to  
30 Section 663.5 of the Harbors and Navigation Code.

31 (d) Subdivision (a) shall not apply to any of the  
32 following who have been issued a certificate pursuant to  
33 Section 12033. The certificate shall not be required of any  
34 person who is a peace officer, who has completed all  
35 training required by law for the exercise of his or her  
36 power as a peace officer, and who is employed while not  
37 on duty as a peace officer.

38 (1) Guards or messengers of common carriers, banks,  
39 and other financial institutions while actually employed  
40 in and about the shipment, transportation, or delivery of

1 any money, treasure, bullion, bonds, or other thing of  
2 value within this state.

3 (2) Guards of contract carriers operating armored  
4 vehicles pursuant to California Highway Patrol and  
5 Public Utilities Commission authority (A) if hired prior  
6 to January 1, 1977; or (B) if hired on or after January 1,  
7 1977, if they have completed a course in the carrying and  
8 use of firearms which meets the standards prescribed by  
9 the Department of Consumer Affairs.

10 (3) Private investigators and private patrol operators  
11 who are licensed pursuant to Chapter 11.5 (commencing  
12 with Section 7512) of, and alarm company operators who  
13 are licensed pursuant to Chapter 11.6 (commencing with  
14 Section 7590) of, Division 3 of the Business and  
15 Professions Code, while acting within the course and  
16 scope of their employment.

17 (4) Uniformed security guards or night watch persons  
18 employed by any public agency, while acting within the  
19 scope and course of their employment.

20 (5) Uniformed security guards, regularly employed  
21 and compensated in that capacity by persons engaged in  
22 any lawful business, and uniformed alarm agents  
23 employed by an alarm company operator, while actually  
24 engaged in protecting and preserving the property of  
25 their employers or on duty or en route to or from their  
26 residences or their places of employment, and security  
27 guards and alarm agents en route to or from their  
28 residences or employer-required range training. Nothing  
29 in this paragraph shall be construed to prohibit cities and  
30 counties from enacting ordinances requiring alarm  
31 agents to register their names.

32 (6) Uniformed employees of private patrol operators  
33 and private investigators licensed pursuant to Chapter  
34 11.5 (commencing with Section 7512) of Division 3 of the  
35 Business and Professions Code, while acting within the  
36 course and scope of their employment.

37 (e) In order to determine whether or not a firearm is  
38 loaded for the purpose of enforcing this section, peace  
39 officers are authorized to examine any firearm carried by  
40 anyone on his or her person or in a vehicle while in any

1 public place or on any public street in an incorporated  
2 city or prohibited area of an unincorporated territory.  
3 Refusal to allow a peace officer to inspect a firearm  
4 pursuant to this section constitutes probable cause for  
5 arrest for violation of this section.

6 (f) As used in this section, “prohibited area” means  
7 any place where it is unlawful to discharge a weapon.

8 (g) A firearm shall be deemed to be loaded for the  
9 purposes of this section when there is an unexpended  
10 cartridge or shell, consisting of a case that holds a charge  
11 of powder and a bullet or shot, in, or attached in any  
12 manner to, the firearm, including, but not limited to, in  
13 the firing chamber, magazine, or clip thereof attached to  
14 the firearm; except that a muzzle-loader firearm shall be  
15 deemed to be loaded when it is capped or primed and has  
16 a powder charge and ball or shot in the barrel or cylinder.

17 (h) Nothing in this section shall prevent any person  
18 engaged in any lawful business, including a nonprofit  
19 organization, or any officer, employee, or agent  
20 authorized by that person for lawful purposes connected  
21 with that business, from having a loaded firearm within  
22 the person’s place of business, or any person in lawful  
23 possession of private property from having a loaded  
24 firearm on that property.

25 (i) Nothing in this section shall prevent any person  
26 from carrying a loaded firearm in an area within an  
27 incorporated city while engaged in hunting, provided  
28 that the hunting at that place and time is not prohibited  
29 by the city council.

30 (j) (1) Nothing in this section is intended to preclude  
31 the carrying of any loaded firearm, under circumstances  
32 where it would otherwise be lawful, by a person who  
33 reasonably believes that the person or property of himself  
34 or herself or of another is in immediate, grave danger and  
35 that the carrying of the weapon is necessary for the  
36 preservation of that person or property. As used in this  
37 subdivision, “immediate” means the brief interval before  
38 and after the local law enforcement agency, when  
39 reasonably possible, has been notified of the danger and  
40 before the arrival of its assistance.

1 (2) A violation of this section is justifiable when a  
2 person who possesses a firearm reasonably believes that  
3 he or she is in grave danger because of circumstances  
4 forming the basis of a current restraining order issued by  
5 a court against another person or persons who has or have  
6 been found to pose a threat to his or her life or safety. This  
7 paragraph may not apply when the circumstances  
8 involve a mutual restraining order issued pursuant to  
9 Division 10 (commencing with Section 6200) of the  
10 Family Code absent a factual finding of a specific threat  
11 to the person's life or safety. It is not the intent of the  
12 Legislature to limit, restrict, or narrow the application of  
13 current statutory or judicial authority to apply this or  
14 other justifications to defendants charged with violating  
15 Section 12025 or of committing other similar offenses.

16 Upon trial for violating this section, the trier of fact shall  
17 determine whether the defendant was acting out of a  
18 reasonable belief that he or she was in grave danger.

19 (k) Nothing in this section is intended to preclude the  
20 carrying of a loaded firearm by any person while engaged  
21 in the act of making or attempting to make a lawful arrest.

22 (l) Nothing in this section shall prevent any person  
23 from having a loaded weapon, if it is otherwise lawful, at  
24 his or her place of residence, including any temporary  
25 residence or campsite.

26 SEC. 10. Section 2805 of the Vehicle Code is amended  
27 to read:

28 2805. (a) For the purpose of locating stolen vehicles,  
29 a member of the California Highway Patrol, the  
30 University of California Police Department, the  
31 California State University Police Departments, the San  
32 Francisco Bay Area Rapid Transit District Police  
33 Department, or a city police department or county  
34 sheriff's office whose primary responsibility is to conduct  
35 vehicle theft investigations, may inspect any vehicle of a  
36 type required to be registered under this code, or any  
37 identifiable vehicle component thereof, on a highway or  
38 in any public garage, repair shop, terminal, parking lot,  
39 new or used car lot, automobile dismantler's lot, vehicle  
40 shredding facility, vehicle leasing or rental lot, vehicle

1 equipment rental yard, vehicle salvage pool, or other  
2 similar establishment, or any agricultural or construction  
3 work location where work is being actively performed,  
4 and may inspect the title or registration of vehicles, in  
5 order to establish the rightful ownership or possession of  
6 the vehicle or identifiable vehicle component.

7 As used in this subdivision, “identifiable vehicle  
8 component” means any component which can be  
9 distinguished from other similar components by a serial  
10 number or other unique distinguishing number, sign, or  
11 symbol.

12 (b) A member of the California Highway Patrol, the  
13 University of California Police Department, the  
14 California State University Police Departments, the San  
15 Francisco Bay Area Rapid Transit District Police  
16 Department, or a city police department or county  
17 sheriff’s office whose primary responsibility is to conduct  
18 vehicle theft investigations, may also inspect, for the  
19 purposes specified in subdivision (a), implements of  
20 husbandry, special construction equipment, forklifts, and  
21 special mobile equipment in the places described in  
22 subdivision (a) or when ~~such a~~ that vehicle is incidentally  
23 operated or transported upon a highway.

24 (c) Whenever possible, inspections conducted  
25 pursuant to subdivision (a) or (b) shall be conducted at  
26 a time and in a manner so as to minimize any interference  
27 with, or delay of, business operations.

28 SEC. 11. *It is the intent of the Legislature that this act*  
29 *shall not be construed to confer any authority,*  
30 *entitlement, or privilege in law, except for those changes*  
31 *specifically made by this act pertaining to peace officers*  
32 *as defined in subdivisions (b) and (c) of Section 830.2 of*  
33 *the Penal Code and subdivision (a) of Section 830.33 of*  
34 *the Penal Code.*

35 SEC. 12. No reimbursement is required by this act  
36 pursuant to Section 6 of Article XIII B of the California  
37 Constitution because the only costs that may be incurred  
38 by a local agency or school district will be incurred  
39 because this act creates a new crime or infraction,  
40 eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section  
2 17556 of the Government Code, or changes the definition  
3 of a crime within the meaning of Section 6 of Article  
4 XIII B of the California Constitution.

5 Notwithstanding Section 17580 of the Government  
6 Code, unless otherwise specified, the provisions of this act  
7 shall become operative on the same date that the act  
8 takes effect pursuant to the California Constitution.

9 ~~SEC. 12.~~

10 *SEC. 13.* (a) Section 6 of this act shall become  
11 operative only if Section 190 of the Penal Code, as  
12 amended by Section 1 of Chapter 413 of the Statutes of  
13 1997, is rejected by the voters at the statewide general  
14 election held in 1998, in which case Section 7 of this act  
15 shall not become operative and shall not be submitted to  
16 the voters.

17 (b) Section 7 of this act shall become operative if  
18 Section 190 of the Penal Code, as amended by Section 1  
19 of Chapter 413 of the Statutes of 1997, is approved by the  
20 voters at the statewide general election held in 1998, in  
21 which case Section 6 of this act shall not become operative  
22 and shall not be submitted to the voters.

23 ~~SEC. 13.~~

24 *SEC. 14.* Sections 6 and 7 of this act affect an initiative  
25 statute and shall become effective only when submitted  
26 to, and approved by, the voters pursuant to subdivision  
27 (c) of Section 10 of Article II of the California  
28 Constitution and in accordance with the provisions of  
29 Section 12 of this act.

